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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

**

ATOM MILLER,

Plaintiff,

vs.

NEVADA CVS PHARMACY, LLC; a Nevada
Limited Liability Company; DOES I-X and ROE
CORPORATIONS I-X, inclusive,

Defendants.

Case No.: 2:19-cv-01554-RFB-VCF

**STIPULATION TO EXTEND
DISCOVERY AND AMEND
DISCOVERY SCHEDULING ORDER
(SECOND REQUEST)**

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(SECOND REQUEST)**

COMES NOW Plaintiff, ATOM MILLER (hereinafter "Plaintiff"); Defendant NEVADA CVS PHARMACY, L.L.C. (hereinafter "CVS") by and through their respective undersigned counsel of record and hereby stipulate to modifying the Scheduling Order pursuant to FRCP 16(b)(4) and extend discovery pursuant to Local Rule 26-4 as set forth herein.

I.

LEGAL STANDARD

Federal Rule of Civil Procedure 16(b) provides that a case management schedule can be modified upon a showing of good cause and by leave of the district judge. The good cause standard primarily considers the diligence of the party seeking the amendment. Johnson v.

1 Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992). A party moving for an
2 amendment to a scheduling order must therefore show that the scheduling order imposes
3 deadlines that have become unworkable notwithstanding its diligent efforts to comply with the
4 schedule, and that it was diligent in seeking the amendment once it became apparent that
5 extensions were necessary. Jackson v. Laureate, Inc., 186 F.R.D. 605, 608 (E.D. Cal. 1999).

6 Pursuant to Nevada District Court Local Rule 26-4, a motion or stipulation to extend a
7 discovery deadline or to reopen discovery must include: (a) A statement specifying the discovery
8 completed; (b) A specific description of the discovery that remains to be completed; (c) The
9 reasons why the deadline was not satisfied or the remaining discovery was not completed within
10 the time limits set by the discovery plan; and (d) A proposed schedule for completing all
11 remaining discovery.

12 II.

13 BACKGROUND

14 This case arises out of an alleged slip-and-fall incident at the CVS Store in Las Vegas,
15 Nevada (Store No. 8798). Plaintiff's Complaint was filed against CVS, alleging causes of action
16 for negligence. Plaintiff alleges that on December 20, 2017, as he was exiting the CVS store, an
17 advertisement sign had fallen onto the ground due to a gust of wind. Plaintiff alleges he slipped
18 on the sign leading to his injuries as described in his Complaint.

19 III.

20 STIPULATION & DISCUSSION

21 All counsel has been diligent in completing discovery and familiarizing themselves with
22 the facts and issues. However, in light of the recent coronavirus restrictions, no depositions, site
23 inspections, or IME may be scheduled within the next two – three months, an unforeseen delay the
24 parties did not, and could not have, originally contemplated. Thus, it is now anticipated that the
25 current discovery deadlines will be unworkable.

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1 In addition, a trial has not yet been set and is not imminent; (2) there is no party
 2 opposing the request; (3) and no party has expressed prejudice. Therefore, pursuant to the
 3 foregoing FRCP 16(b)(4) and Local Rule 26-4 this stipulation is warranted and justified by good
 4 cause.

5 **A. *Discovery Completed To Date***

6 1. Both Plaintiff and CVS have made/served their FRCP 26(f) Disclosures and
 7 continue to provide supplements thereto.

8 2. Plaintiff has propounded written discovery and Defendant has responded to said
 9 written discovery and provided supplements in relation thereto.

10 3. Defendant is in the process of obtaining Plaintiff's medical records.

11 **B. *Discovery Remaining***

12 A substantial amount of discovery remains to be completed in this matter. Defendant is
 13 still in the process of independently obtaining Plaintiff's medical records. The depositions of
 14 Plaintiff Atom Miller and Defendant CVS' 30(b)(6) witness must still be taken; as well as any
 15 fact witness deposition that may arise from party depositions. Experts still need to complete
 16 their reviews/inspections, as well as any additional necessary written discovery that may arise in
 17 the normal course of discovery.

18 **C. *The Reasons Why Discovery Remaining Was Not Completed***

19 On March 6, 2020, Defendant CVS substituted its counsel of record, as such, new
 20 counsel required time to become familiar with the facts and circumstances surrounding the
 21 matter. Plaintiff vacated its deposition of Defendant CVS's 30(b)(6) deposition to allow new
 22 counsel preparation time. Following this, Nevada Governor Steve Sisolak declared a state of
 23 emergency due to the COVID-19 outbreak. Pursuant to this and the Court's orders, discovery
 24 outside of written form has not been undertaken for the safety of the parties. Plaintiff and
 25 Defendant have continued to have settlement discussions, and wish those to continue without the
 26 urgent deadlines for completing discovery and increasing litigation costs.

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For these good causes shown, the parties propose the following one hundred and twenty (120) day extension to the Scheduling Order to fully complete discovery and avoid additional requests to extend the same. The deadlines are based on the current state of affairs and allowing for sufficient time to safely notice and take the depositions of Defendants 30(b)(6) witness and Plaintiff, while also providing for additional time for the parties expert to review and submit their reports.

D. Proposed Amended Scheduling Order

<u>Deadline</u>	<u>Current</u>	<u>Proposed</u>
Interim Status Report	May 11, 2020	September 10, 2020
Initial Expert Disclosure	May 11, 2020	September 10, 2020
Rebuttal Expert Disclosure	June 10, 2020	October 12, 2020
Close of Discovery	July 9, 2020	November 10, 2020
Dispositive Motions	August 6, 2020	December 12, 2020
Joint Pre-Trial Order	September 4, 2020	January 11, 2021

THE FOREGOING IS HEREBY STIPULATED AND AGREED.

Dated this 9th day of June, 2020.


ADAM SMITH LAW

/s/ Christian A. Miles

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ATOM MILLER


Dated this 10th day of June, 2020.

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If dispositive motions are filed, the deadline for filing the joint pretrial order will be suspended until 30 days after decision on the dispositive motions or further court order.

IT IS SO ORDERED.


UNITED STATES MAGISTRATE JUDGE
DATED: 6-10-2020

CC-26579

CERTIFICATE OF SERVICE

Pursuant to FRCP 5, I hereby certify that I am an employee of ALVERSON TAYLOR & SANDERS and that on the 10th day of June, 2020, I caused to be served via CM/ECF a true and correct copy of **STIPULATION TO EXTEND DISCOVERY AND AMEND DISCOVERY SCHEDULING ORDER (SECOND REQUEST)**, to the following:

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